



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

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July 25, 2012

Mr. Alejandro Mayorkas, Director  
U. S. Citizenship and Immigration Services  
20 Massachusetts Ave., NW  
Washington, D.C. 20529

Mr. John Morton, Director  
Mr. Andrew Lorenzen-Strait, Public Advocate  
U.S. Immigration and Customs Enforcement  
500 12th St., SW  
Washington, D.C. 20536

Mr. John Sandweg, Counselor to the Secretary and Deputy Secretary  
Ms. Kelly Ryan, Deputy Assistant Secretary for Immigration and Border Security  
U.S. Department of Homeland Security  
Washington, DC 20528

**Re: Recommendations for DHS's Implementation of the June 15, 2012 Deferred Action Initiative**

Dear Director Mayorkas, Director Morton, Mr. Lorenzen-Strait, Mr. Sandweg, and Ms. Ryan:

I'm writing on behalf of First Focus concerning the June 15<sup>th</sup> announcement of deferred action for certain immigrant children and youth. First Focus is a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. As advocates for children, we are committed to ensuring that our immigration policies should promote child well-being and family unity. We strongly support the deferred action initiative and are writing today to offer recommendations for DHS to effectively implement this new directive.

The following recommendations will ensure that all eligible children and youth are identified and granted deferred action without exposing themselves or their family to unnecessary risk, and we hope DHS will take them into consideration when implementing the new policy.

- 1. Exercise prosecutorial discretion with respect to the parents and other family members of individuals eligible under this initiative.** USCIS should issue clear guidance stating that it will not pursue and prosecute the parents and other family members of individuals eligible for deferred action. In the absence of such guidance, many eligible youth may not come forward out of fear that their family members will be detained and/or removed. In cases where an individual's claim is denied by

USCIS, it should also be clearly articulated that neither the individual applicant nor his or her parents or family members will be referred to ICE.

2. **Ensure that fees associated with this initiative are affordable and provide hardship waivers when needed.** Many of the children and youth who are eligible for deferred action come from low-income families and would be unable to afford expensive application fees. While we understand that an undertaking of this size requires additional resources, we recommend that USCIS set affordable fees and provide a clear and expedient process to apply for a hardship waiver if necessary.
3. **Extend eligibility to youth who were enrolled in a GED program on the announcement date, and allow youth to earn a GED after the announcement date.** If an individual was enrolled in a GED program as of June 15<sup>th</sup>, that should be sufficient for the requirement of “being in school.” Additionally, if an individual was not in school and did not have a GED on June 15, 2012 but is otherwise eligible for deferred action, USCIS should grant that individual deferred action if they earn a GED before applying. Likewise, eligible applicants already in removal proceedings who have not yet earned a GED but are otherwise eligible should be granted prosecutorial discretion in order to enroll in a GED program and formally apply for the new deferred action policy at a later time.
4. **Ensure that there is as much flexibility as possible with regards to the types of documentation accepted to determine continuous presence in the U.S. for five years.** Some of the young people eligible for deferred action live in migrant families that move often, which may make it difficult to obtain medical records and school records. USCIS should accept a wide range of documentation that can be used to establish an individual’s residency in the U.S., including unofficial and official transcripts.
5. **Exercise prosecutorial discretion with respect to children under age 15 who are otherwise eligible for deferred action under this policy.** DHS should issue clear guidance stating that children under age 15 who would otherwise be eligible for deferred action will not be pursued or prosecuted and can apply for deferred action when they turn 15-years-old. This guidance will clear any confusion over children who are otherwise eligible but technically cannot yet apply because they are too young and eliminate the fear of being detained and removed before they are eligible.
6. **Provide individuals that receive deferred action permission to travel outside the United States.** Individuals that qualify for deferred action should be able to travel outside the United States, especially since many individuals may be enrolled in higher education and may have the opportunity to participate in study-abroad programs.
7. **Provide otherwise eligible youth who were removed prior to the June 15<sup>th</sup> announcement date a waiver to the 3- or 10-year bar to re-entry.** It is clear that many youth who would have been eligible for deferred action have fallen through the cracks and were removed from the U.S. prior to the announcement date. While it is likely not feasible to parole all these young people, it would be helpful to provide a

waiver to the 3- or 10-year bars to re-entry on a case-by-case basis for young people who can demonstrate that they otherwise would have qualified for deferred action.

We urge DHS to consider these recommendations to ensure that all eligible youth are able to obtain deferred action. We thank you for taking this important step to providing relief to hundreds of thousands of deserving children and young people, and we look forward to working with you on implementation of the new policy. Should you have any questions regarding these recommendations, please contact Wendy Cervantes, Vice President, Immigration and Child Rights, at [WendyC@firstfocus.net](mailto:WendyC@firstfocus.net) or 202-657-0637.

Sincerely,

A handwritten signature in blue ink that reads "Bruce Lesley". The signature is written in a cursive, slightly slanted style.

Bruce Lesley  
President

CC:

Cecilia Muñoz, Director, White House Domestic Policy Council

Felicia Escobar, Senior Policy Director for Immigration, White House Domestic Policy Council

Stephanie Valencia, Deputy Director, White House Office of Public Engagement

Julie Rodriguez, Associate Director of Latino Affairs and Immigration, White House Office of Public Engagement